

extent the cooperative and FmHA or its successor agency under Public Law 103-354 permit, to others in special circumstances.

(d) *Eviction.* Dispossession of the tenant by judicial action pursuant to State or local law from a RRH or LH unit as a result of termination of the tenancy, including a termination before or at the end of the lease term.

(e) *Grievance.* A dispute which a tenant has with the borrower's action, or failure to act, according to the lease and/or FmHA or its successor agency under Public Law 103-354 regulations which results or may result in denial, significant reduction, or termination of benefits (other than eviction by judicial action pursuant to State or local law).

(f) *Hearing.* An informal proceeding at which a tenant's grievance or appeal of a borrower's adverse action or decision, or an applicant's appeal of a rejected application, or denial of an application for admission is heard before an impartial hearing officer or hearing panel.

(g) *Lease.* The written agreement, approved by FmHA or its successor agency under Public Law 103-354, between the borrower and tenant.

(h) *Tenant.* An eligible lessee/occupant of a RRH or LH project who has executed a lease agreement. For the purposes of this subpart, the term *tenant* will also mean *cooperative member*.

(i) *Termination of tenancy.* The termination of the lease, either before or at the end of the lease term, as the result of material noncompliance with the terms of the lease, rules for occupancy, or violation of FmHA or its successor agency under Public Law 103-354 regulations applicable to conditions for occupancy.

[48 FR 56177, Dec. 19, 1983, as amended at 56 FR 2256, Jan. 22, 1991; 58 FR 40954, July 30, 1993]

§ 1944.553 Exceptions.

This subpart does not apply to:

(a) *Rent changes authorized by FmHA or its successor agency under Public Law 103-354.* Rent changes must be authorized by FmHA or its successor agency under Public Law 103-354 in accordance with the requirements of exhibit C to subpart C of part 1930 of this chapter

where tenants are provided an opportunity to provide comments to FmHA or its successor agency under Public Law 103-354 on a borrower's Notice of Proposed Rent Change.

(b) *Discrimination complaints.* Any tenant/member of prospective tenant/member seeking occupancy or use of RRH, RCH, or related facilities who believes he/she has been discriminated against because of age, race, color, religion, sex, marital or familial status, handicap or national origin may file a complaint in person with, or by mail to the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development (HUD), Washington, DC 20410, or any HUD office, or to the Secretary of Agriculture, Washington, DC 20250. If a complaint is made to an FmHA or its successor agency under Public Law 103-354 County, District or State Office, it must be directed to the Director of Equal Opportunity Staff, National Office, by the FmHA or its successor agency under Public Law 103-354 employee in charge of that office. When a complaint is sent to FmHA or its successor agency under Public Law 103-354-EOS by a county or district office, the State Director will be made aware of the complaint.

(c) *Projects in which an association of all tenants has been duly formed.* In projects where an association of all tenants has been duly formed and the association and the borrower have agreed to an alternate method of settling grievances, that method will be used.

(d) *Changes in rules required by FmHA or its successor agency under Public Law 103-354.* Changes in rules required by FmHA or its successor agency under Public Law 103-354 in which proper notice and opportunity have been given according to law and the provisions of the lease.

(e) *Notification of termination of tenancy and eviction.* Notification of termination of tenancy and eviction is to be handled in accordance with paragraph XIV C of exhibit B of subpart C of part 1930 of this chapter and according to State or local law.

(f) *Termination of tenancy and eviction by judicial action as prescribed by State or local law.* Termination of tenancy and eviction must be based on material

violation of the lease terms or for other good cause as determined by the borrower or the project manager in accordance with paragraph XIV A of exhibit B of subpart C of part 1930. The borrower shall not evict any tenant except by judicial action pursuant to State or local law and in accordance with the requirements of this subpart.

(g) *Disputes between tenants.* This subpart does not apply to disputes between tenants not involving the borrower.

(h) *Displacement or other effects as a result of prepayment.* This subpart does not apply to tenant displacement or other effects due to prepayment of the FmHA or its successor agency under Public Law 103-354 loan. Opportunities for tenant input into the prepayment process are outlined in subpart E of part 1965 of this chapter.

[48 FR 56177, Dec. 19, 1983, as amended at 56 FR 2256, Jan. 22, 1991; 58 FR 38925, July 21, 1993; 58 FR 40954, July 30, 1993]

§ 1944.554 Reasons for grievance and appeal.

(a) *Tenants.* Grievance and appeal procedures provide a means for a tenant, in an FmHA or its successor agency under Public Law 103-354 financed rental project, to meet with a borrower and to obtain a hearing if the tenant has a grievance. This opportunity relates to a borrower's action or failure to act, in accordance with the lease and/or FmHA or its successor agency under Public Law 103-354 regulations and results in a denial, significant reduction or, termination of benefits; or, when a tenant contests a borrower's notice of proposed adverse action as provided in § 1944.555(b) of this subpart. This may include:

- (1) Failure to maintain the premises in such manner that provides decent, safe, and sanitary housing.
- (2) Violation of lease covenants and rules.
- (3) Modification of lease.
- (4) Rule changes.
- (5) Rent changes not authorized by FmHA or its successor agency under Public Law 103-354 according to exhibit C of subpart C of part 1930 of this chapter.
- (6) Failure to maintain the premises according to State and local laws, statutes, or ordinances in effect at the date

of final construction unless new or amended laws and ordinances are made retroactive to, or prior to, the date of final construction.

(7) Denials of RA.

(b) *Applicant.* Grievance and appeal procedure provides an appeal right for a person whose application for admission to occupancy in an RRH or LH project has been rejected, as well as for a person who has been denied an application for admission. This appeal right does not apply to those persons who are clearly not eligible for occupancy under FmHA or its successor agency under Public Law 103-354 regulations.

[48 FR 56177, Dec. 19, 1983, as amended at 50 FR 8596, Mar. 4, 1985; 58 FR 40954, July 30, 1993]

§ 1944.555 Settlement of grievances and appeals.

(a) *General.* Borrowers and applicants/tenants are encouraged to attempt to settle disputes through informal meetings without resorting to the hearing process further described in this subpart.

(b) *Notice to applicant/tenant.* In the case of a borrower's proposed adverse action including denial of admission to occupancy, the borrower shall notify the applicant/tenant in writing. The notice must be delivered by certified mail return receipt requested, or a hand-delivered letter with a signed and dated acknowledgement of receipt from the applicant/tenant, giving specific reasons for the proposed action. The notice must also advise the applicant or tenant of the right to respond to the notice within 10 calendar days after receipt, in accordance with paragraph (c) of this section and of the right to a hearing in accordance with § 1944.556 of the subpart. In projects where there is a concentration of non-English speaking individuals, the notice must also be in the non-English concentration language, when necessary, for the tenant's understanding.

(c) *Presentation of grievances or responses to notice of proposed adverse actions.* If the adverse action cannot be resolved otherwise, the applicant/tenant shall personally present to the borrower or borrower's designee any grievance or response, either orally or in writing, within 10 calendar days after